

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Valentina Concha-Toro	Team: Squad #15	CCRB Case #: 201910837	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 12/19/2019 6:44 AM, Thursday, 12/19/2019 8:12 AM	Location of Incident: § 87(2)(b) inside PSA 2 stationhouse	Precinct: 73	18 Mo. SOL 6/19/2021	EO SOL 2/3/2022	
Date/Time CV Reported Thu, 12/19/2019 9:11 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/19/2019 9:11 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. PO Jason Gammello	31832	954842	PSA 2
3. SGT Michael Wallace	00579	955649	INT CIS
4. LSA Favio Quizhpi	00000	948119	PSA 2
5. DT3 Christophe Desimone	06317	958495	INT CIS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Jonathan Frith	07626	953885	INT CIS
2. POM Godwin Ngai	01239	954175	PSA 2
3. DT3 Justin Walker	16762	958158	INT FIO PRG
4. POM Alberto Velez	18133	952316	PSA 2
5. SSA Donald Abrams	00085	921890	E S U
6. LT Donald Edejer	00000	941694	PSA 3
7. DI BESEMAH ROGERS	00000	937419	PSA 1

Officer(s)	Allegation	Investigator Recommendation
A. PO Jason Gammello	Abuse: Police Officer Jason Gammello entered § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
B. PO Jason Gammello	Abuse: Police Officer Jason Gammello searched § 87(2)(b) § 87(2)(b)	§ 87(2)(b)
C. SGT Michael Wallace	Abuse: At § 87(2)(b) § 87(2)(b) Police Officer Michael Wallace damaged § 87(2)(b) s property	§ 87(2)(b)
D. DT3 Christophe Desimone	Abuse: At § 87(2)(b) § 87(2)(b) Police Officer Christophe Desimone searched § 87(2)(b)	§ 87(2)(b)
E. LSA Favio Quizhpi	Abuse: At the PSA 2 stationhouse, Lieutenant Favio Quizhpi strip-searched § 87(2)(b)	§ 87(2)(b)
F. LSA Favio Quizhpi	Discourtesy: At the PSA 2 stationhouse, Lieutenant Favio Quizhpi spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
G. Officers	Discourtesy: At the PSA 2 stationhouse, officers spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

## Case Summary

On December 19, 2019, § 87(2)(b) submitted this complaint with the CCRB over the telephone.

At approximately 6:44 a.m. on December 19, 2019, § 87(2)(b) and § 87(2)(b) were asleep in § 87(2)(b) at § 87(2)(b) Brooklyn. PO Jason Gammello, Lt. Favio Quizhpi, PO Christopher Desimone, PO Michael Wallace, PO Godwin Ngai and other officers from the Field Intelligence Office of PSA 2 entered the apartment and executed a search warrant (**Allegations A and B: Abuse of Authority**, § 87(2)(g)). During the search warrant execution, PO Wallace damaged property inside of the apartment (**Allegations C: Abuse of Authority**, § 87(2)(g)). PO Desimone searched § 87(2)(b) (**Allegation D: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was taken from the apartment to the PSA 2 stationhouse. At the PSA 2 stationhouse Lt. Quizhpi authorized and performed a strip-search of § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g)). Lt. Quizhpi used the word “fucking” when speaking to § 87(2)(b) (**Allegation F: Discourtesy**, § 87(2)(g)). Inside of the PSA 2 stationhouse, officers used the words “fucking,” “fuck,” and “dick” while speaking to § 87(2)(b) (**Allegation G: Discourtesy**, § 87(2)(g)). § 87(2)(b)

§ 87(2)(g), § 87(4-b)

A total of 15 BWC videos, 15 videos of stationhouse security, and one video from NYCHA CCTV were obtained (Board Reviews 01-05).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Jason Gammello entered § 87(2)(b)**

§ 87(2)(b)

**Allegation (B) Abuse of Authority: Police Officer Jason Gammello searched § 87(2)(b)**

§ 87(2)(b)

**Allegation (C) Abuse of Authority: At § 87(2)(b) § 87(2)(b) Police Officer Michael Wallace damaged § 87(2)(b) s property.**

It is undisputed that at approximately 6:44 a.m. on December 19, 2019, officers entered and searched § 87(2)(b) § 87(2)(b) in Brooklyn under valid search warrant § 87(2)(b), obtained by PO Gammello and signed by § 87(2)(b). (Board Review 06). § 87(2)(b) § 87(2)(b) in Brooklyn is a three-bedroom, one bathroom unit in the § 87(2)(b). § 87(2)(b) and her two sons, § 87(2)(b) and § 87(2)(b) reside in the apartment. The only property damage was to a wall inside of § 87(2)(b) s bedroom which was kicked in.

§ 87(2)(b) was the only individual who participated in this complaint and provided a statement (Board Review 07). Neither § 87(2)(b) nor § 87(2)(b) provided verified statements to the CCRB. After the police officers left, she observed clothing and other personal items had been removed from closets, cabinets, various storage locations, and that there was a hole in § 87(2)(b) s bedroom wall.

At internal timestamp 7:11:00 a.m. in PO Wallace’s BWC video (Board Review 01), a portion of a wall has a square outline which appears to be the result of someone having spackled a previously

cut out portion of the wall. PO Wallace kicks the square in and says, “It was open though.” PO Wallace recovers marijuana and cash from inside § 87(2)(b) s bedroom.

PO Ngai vouchered the marijuana and the 443 dollars recovered during the execution of the search warrant (Board Review 08).

The search warrant obtained (Board Review 06) noted that there was probably cause for believing heroin, paraphernalia associated with the distribution of heroin, US currency associated with the illegal trafficking of heroin, in addition to other items associated with the distribution of heroin were to be found inside of § 87(2)(b) § 87(2)(b). The warrant was a “no-knock” warrant due to ease which the contraband in question could be discarded and commanded that the items noted be searched for, and if found seized, inside of the apartment.

According to NY Criminal Procedure Law §650.50 (Board Review 09), officers may forcibly enter and search a premise if permitted by a warrant.

Since PO Gammello was the police officer who obtained the search warrant, the entry and search will only be pleaded to him. As the officers had a valid search warrant, they were permitted to enter and search the residence. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: At § 87(2)(b) § 87(2)(b) Police Officer Christophe Desimone searched § 87(2)(b)**

The search warrant (Board Review 06) authorized a search of § 87(2)(b) s person for heroin and associated paraphernalia and other evidence.

§ 87(2)(b) did not provide a verified statement to the CCRB. In a telephone statement (Board Review 10), § 87(2)(b) stated that he had been wearing boxers and pajama pants. § 87(2)(b) was removed from his bedroom in handcuffs and placed against a wall. PO Desimone placed a hand in the vicinity of § 87(2)(b) s rear. § 87(2)(b) refused to answer any clarifying question about PO Desimone’s actions.

Captured at internal timestamp 7:7:36 a.m.in PO Jason Frith’s BWC video (Board Review 01), PO Desimone walks § 87(2)(b) out of his bedroom into a hallway. § 87(2)(b) is wearing a black shirt and white pants. § 87(2)(b) faces a wall and PO Desimone searches him. PO Desimone’s hands go around § 87(2)(b) s waistband area and PO Desimone places a hand inside the waist band area of § 87(2)(b) s white pant.

PO Desimone stated (Board Review 11) that he initially did not recall whether he or any other police officer searched § 87(2)(b) PO Frith’s BWC video was played during the interview and PO Desimone confirmed that he was the officer who conducted a search on § 87(2)(b) for safety, specifically on § 87(2)(b) s waist area where he could have had weapons.

According to People v. Ford 203 A.D.2d 194 (Board Review 12), an officer is justified in searching a person with a valid search warrant which included the right to search defendant's person.

§ 87(2)(b), § 87(2)(g)

**Allegation (E) Abuse of Authority: At the PSA 2 stationhouse, Lieutenant Favio Quizhpi strip-searched § 87(2)(b)**

It is undisputed that § 87(2)(b) was taken from § 87(2)(b) § 87(2)(b) to the PSA 2 stationhouse. Before leaving his home, § 87(2)(b) was provided jeans to put over the pants he initially had on, a jacket and shoes. At the PSA 2 stationhouse § 87(2)(b) was logged in at the front desk and removed to the holding cell area. The holding cell area is a room with three cells to the left after entering the front door, a processing area in the middle of the room, and a bathroom to the right of the room. Lt. Quizhpi, PO Walker, PO Ngai and PO Desimone walked § 87(2)(b) into the bathroom inside the holding cell area. The PSA 2 command log (Board Review 13) noted that a strip-search was conducted by Lt. Quizhpi. Memo book entries from Lt. Quizhpi, PO Desimone and PO Ngai (Board Reviews 13-15) noted that Lt. Quizhpi authorized § 87(2)(b)'s strip-searched.

§ 87(2)(b) stated over the telephone (Board Review 10) that he was wearing boxers and pajama pants. He was informed that the officers had a warrant for narcotics. He was taken to the PSA 2 stationhouse. In the stationhouse, multiple officers held him and one of the officers "strip-searched" him. § 87(2)(b) was not able to provide any additional information about where the police officers touched him, including what manipulation of his clothing occurred. § 87(2)(b) missed two scheduled interview appointments and did not provide a verified statement to the CCRB.

Lt. Quizhpi, PO Desimone, PO Walker and PO Ngai stated (Board Reviews 11, 16-18) that Lt. Quizhpi made the determination that § 87(2)(b) needed to be strip-searched at the PSA 2 stationhouse. Lt. Quizhpi made this determination based on his observation of § 87(2)(b) in the apartment. Lt. Quizhpi believed that § 87(2)(b) was attempting to conceal contraband in the rear of his white pants because while rear cuffed, § 87(2)(b) was standing up, "squirming around," and it looked like he was tucking something into his white pants although Lt. Quizhpi did not observe § 87(2)(b) placing a hand inside the waistband of his pants. At the PSA 2 stationhouse, Lt. Quizhpi authorized a strip-search of § 87(2)(b) be done in the bathroom of the holding cell area. § 87(2)(b) pulled away from Lt. Quizhpi, PO Desimone, PO Walker and PO Ngai as he was being walked to the bathroom. PO Walker stated (Board Review 17) that he remained outside the bathroom area door because Lt. Quizhpi, PO Ngai and PO Desimone were already with § 87(2)(b) in the bathroom. § 87(2)(b) was verbally refusing to be strip-searched and he was physically uncooperative, but none of the officers were able to provide information about what § 87(2)(b) was doing with his body. Lt. Quizhpi instructed PO Desimone and PO Ngai to hold § 87(2)(b) and they each grabbed on of § 87(2)(b)'s arms. Lt. Quizhpi stated (Board Review 16) that he pulled down § 87(2)(b)'s jeans to above his knees so that § 87(2)(b)'s white pants were exposed. Lt. Quizhpi did not observe any bulges in § 87(2)(b)'s white pants. He used his hand to touch § 87(2)(b)'s rear above the white pants. Lt. Quizhpi said that he intended to conduct a more invasive search of § 87(2)(b) but was unable to safely do so due to § 87(2)(b)'s lack of physical cooperation and after touching over the white pants. Lt. Quizhpi then determined § 87(2)(b) did not have any contraband underneath his clothes. All the officers present testified that at no point did Lt. Quizhpi

place his hands inside any of § 87(2)(b)'s clothes. No other articles of clothing were manipulated and at no point were § 87(2)(b)'s genitals exposed. PO Desimone stated (Board Review 11) that he did not know why this search was labeled a “strip-search” beyond the fact that Lt. Quizhpi authorized a strip-search.

Stationhouse video from inside of the holding cell (Board Review 04) captured Lt. Quizhpi, PO Ngai, PO Walker and PO Desimone walking a handcuffed § 87(2)(b) into the bathroom. The video does not capture inside the bathroom area. From 1:18:32 hours to 1:19:40 hours into the video, § 87(2)(b) is in the bathroom and out of the video frame. § 87(2)(b)'s jeans are unbuttoned and unzipped.

From 8:18:05 a.m. to 8:19:45 a.m. in the internal timestamp of PO Walker's BWC (Board Review 01) the camera is on a table in the holding cell area, but it is not pointed toward the bathroom area. The video's audio captures the moment when the officers and § 87(2)(b) are in the bathroom, but it does not show the bathroom.

According to the NYPD Patrol Guide, Section 208-05 (Board Review 19), strip search is any search in which an individual's undergarments and/or private areas are exposed or in which an individual's clothing is removed, lifted up, or pulled down to expose undergarments or private areas.

§ 87(2)(b), § 87(2)(g)

**Allegation (F) Discourtesy: At the PSA 2 stationhouse, Lieutenant Favio Quizhpi spoke discourteously to § 87(2)(b)**

**Allegation (G) Discourtesy: At the PSA 2 stationhouse, officers spoke discourteously to**

§ 87(2)(b)

PO Walker placed his BWC on a table inside of the holding cell area. The BWC video (Board Review 01) captured the audio when § 87(2)(b) Lt. Quizhpi, PO Desimone and PO Ngai were inside of the bathroom and captured § 87(2)(b) in front of a cell with PO Desimone and PO Ngai. From internal timestamp 8:18:39 a.m. to 8:19:08 a.m. the BWC audio captured the phrases, “We’re not gonna fucking do this in public, there's cameras out there,” “Stop fucking around,” “Calm the fuck down,” “Stop being a fucking dick about it.” PO Ngai walks § 87(2)(b) to the front of a holding cell. § 87(2)(b) tells PO Ngai to get off of him multiple times. PO Desimone approaches and grabs § 87(2)(b) PO Desimone says, § 87(2)(b) calm the fuck down.”

Lt. Quizhpi, PO Desimone, PO Ngai and PO Walker stated (Board Reviews 11, 16-18) that while in the bathroom area § 87(2)(b) repeatedly stated that he did not want to be strip-searched and that he was physically uncooperative. None of the police officers were able to provide any details in regard to what § 87(2)(b) was doing with his body, but that § 87(2)(b) was moving enough so that PO Desimone and PO Ngai held his arms. In their initially statements, none of the

police officers recalled having used any discourteous language while speaking to § 87(2)(b). The BWC was shown during all the interviews. Lt. Quizhpi identified himself as the individual who said, “We’re not gonna fucking do this in public, there’s cameras out there.” Lt. Quizhpi explained that he used profane language because of § 87(2)(b) was moving and verbally refusing to cooperate. He used the word “fucking” because it was the “heat of the moment” and he “wasn’t thinking.” Neither PO Ngai, PO Walker, PO Desimone, nor Lt. Quizhpi were able to identify the voices who said the phrases, “Calm the fuck down,” “Stop fucking around,” “Stop being a fucking dick about it,” and § 87(2)(b) calm the fuck down.” During all of the interviews, the police officers stated that they were having difficulty distinguishing the phrases from the other noises in the video and due to the remote sharing of the video, the audio was not loud enough.

According to the NYPD Patrol Guide, Section 200-02 (Board Review 20), police officers are required to treat civilians with “courtesy, professionalism, and respect.”

Lt. Quizhpi identified himself as using the word “fucking” while speaking to § 87(2)(b) inside the bathroom area. At the time that Lt. Quizhpi used the profane language, § 87(2)(b) was in police custody, restrained in handcuffs, and inside of a stationhouse. While § 87(2)(b) was refusing to be searched, none of the police officers were able to provide an account of what § 87(2)(b) was doing. The only explanation Lt. Quizhpi provided for his use of profanity was that it was the heat of the moment and that he was not thinking. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

The investigation interviewed all individuals who would have been able to identify the users of profane language captured in the BWC, but due to technical difficulties with the audio during the remote interviews, none of the officers were able to hear the instances of profane language and identify the speakers. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### Civilian and Officer CCRB Histories

- § 87(2)(b)  
[REDACTED]
- § 87(2)(b)  
[REDACTED]
- § 87(2)(b)  
[REDACTED]
- Lt. Quizhpi has been a member of service for 12 years and has been a subject in eight prior CCRB complaints and 22 allegations, none of which were substantiated. § 87(2)(g)  
[REDACTED]
- PO Gammello has been a member of service for 8 years and has been a subject in two prior CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)  
[REDACTED]
- PO Desimone has been a member of service for six years and has been a subject in seven prior CCRB complaints and 16 allegations, none of which were substantiated. § 87(2)(g)  
[REDACTED]
- PO Wallace has been a member of service for four years and has been a subject in two prior CCRB complaints and 16 allegations, none of which were substantiated. § 87(2)(g)  
[REDACTED]
- PO Ngai has been a member of service for 8 years and has been a subject in nine prior CCRB complaints and 21 allegations, of which three were substantiated.:
  - 201904342 involved substantiated an allegation of a failure to provide RTKA card against PO Ngai. This incident occurred prior to the Board providing recommendations, the NYPD imposed instruction.
  - 201904359 involved substantiated allegations of a failure to provide RTKA card against and a strip-search against PO Ngai. This incident occurred prior to the Board providing recommendations and the NYPD has not yet imposed discipline. § 87(2)(g)  
[REDACTED]

### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.

• § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)  
[REDACTED]


• § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)  
[REDACTED]



- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)
  - As of December 12, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 29).
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Squad: 15

Investigator:	<u>Valentina Concha-Toro</u>	<u>Inv. Valentina Concha-Toro</u>	<u>January 4, 2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u></u>	<u>IM Simon Wang</u>	<u>01/04/22</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date